

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-357-W/S - ORDER NO. 2005-113
MARCH 21, 2005

IN RE: Application of Carolina Water Service, Inc.)	ORDER GRANTING
for Adjustment of Rates and Charges and)	PETITION AND
Modification of Certain Terms and)	DENYING MOTION OF
Conditions for the Provision of Water and)	DHEC
Sewer Service.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition of the South Carolina Department of Health and Environmental Control (DHEC) to Intervene and Notice of and Motion to Expand the Scope of Hearing, involving a request for rate relief by Carolina Water Service, Inc. (CWS or the Company). Because of the reasoning stated below, we grant the Petition to Intervene, but we deny the Motion to Expand the Scope of the Hearing.

We would note that DHEC petitioned to intervene in this proceeding, and addressed each of the criteria for intervention set out in 26 S.C. Code Ann. Reg. 103-836 (Supp. 2004). However, DHEC further moved to expand the scope of the proceeding herein. DHEC noted in its filing that the original CWS Application does not seek any changes to a certain provision of the CWS tariff already approved for sewage treatment. This provision reads as follows:

When Sewage is collected by the Utility and transferred to a government body or agency, or other entity for Treatment... [t]he Utility will also charge for treatment services provided by the government body or agency

or other entity. The rates imposed or charged by the Government body or agency or other entity providing Treatment will be charged to the Utility's affected Customers on a pro rata basis, without markup. Where the Utility is required under the terms of the 201/208 Plan to interconnect to the sewage treatment system of a government body of [sic] or other entity and tap/connection/impact fees are imposed by that entity, such tap/connection/impact fees will be charged to the Utility's affected customers on a pro rate basis, without markup.

This language was from a tariff approved by the Commission by Order No. 94-484, effective May 31, 1994. DHEC alleges that, on information and belief, each of the individual systems comprising CWS's customer base serves a small fraction of the total customer base. According to DHEC, the quoted tariff provision has the practical effect of allowing/requiring CWS to recover costs of bulk treatment provided by a third party in a way which is substantially different from the mechanism by which it is allowed to recover costs of capital improvements, even if such improvements affect only one system. Also according to DHEC, the existing tariff, by isolating the burden of pass-through treatment costs to the customers of one of CWS's constituent systems, results in potential rate shock to CWS's present customers. DHEC notes that upon evaluation of such prospective rate shock, the Commission has denied approval of proposed interconnection proposals. This, according to DHEC, has the effect of thwarting implementation of area-wide wastewater treatment plans established pursuant to Section

208 of the Federal Clean Water Act, which DHEC has an interest in seeing put into effect.

CWS has filed an Answer in Opposition to the Petition to Intervene and the Motion to Expand the Scope of the Hearing. First, CWS alleges that DHEC's Petition to Intervene fails to satisfy any of the three (3) requirements for a petition to intervene found in 26 S.C. Code Ann. Reg. 103-836(A)(3)(a) (1976). Further, CWS states that the Motion is premature and without basis in the law. CWS points to the fact that this Commission denied a similar petition in the last CWS rate case, and refused to expand the scope of the proceeding beyond that which was raised in the utility's application.

It appears to us that the Petition to Intervene should be granted. DHEC does provide some basis for each point in Reg. 103-836(A)(3)(a) (1976). However, we hold that the Motion to Expand the Scope of the Hearing must be denied. Certainly, we agree that, in this case, the scope of the proceeding should not be expanded beyond that which was raised in the Company's application. In addition, we would note that the proposed expansion was not part of the original Notice published and served in this proceeding. In order to properly expand the scope of the hearing, a new Notice would have to be published and served. This, we do not order. Accordingly, the Motion to Expand must be denied.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. DHEC has filed a Petition to Intervene and a Motion to Expand the Scope of the Hearing. CWS has filed a response in opposition to both the Petition and the Motion.

2. DHEC has stated sufficient grounds to intervene in this case, such that the Petition to Intervene is granted.

3. The DHEC Motion to Expand the Scope of the Hearing is denied. In the present case, the scope of the hearing will not be expanded beyond the bounds of the Company's Application. Further, the original Notice did not include the proposed expansion. We will not order another Notice in this case.

4. The Petition to Intervene is granted and the Motion to Expand the Scope of the Hearing is denied.

ORDER

The DHEC Petition to Intervene is granted and the Motion to Expand the Scope of the Hearing is denied. DHEC shall be added to the list of Intervenors in this case. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice-Chairman

(SEAL)